

DATE

Mr. Ernest E. Garrett, III, Chairman
Louisiana Commission for the Deaf
P.O. Box 3214
Baton Rouge, LA 70821

**Re: Louisiana Board of Ethics Docket No. 2021-874
Advisory Opinion**

Dear Mr. Garrett:

The Louisiana Board of Ethics ("Board"), at its November 5, 2021 meeting, considered your request for an advisory opinion as to whether the Louisiana Code of Governmental Ethics ("Code") would prohibit members of the Louisiana Commission for the Deaf from receiving services offered to the DeafBlind population.

FACTS PROVIDED

The Louisiana Commission for the Deaf ("LCD"), an agency within the Louisiana Department of Health, is the statewide coordinator for providing telecommunications equipment and alert systems to individuals who are d/Deaf, DeafBlind or Hard of Hearing ("DDBHH"). LCD provides services and equipment to DDBHH individuals and families under accommodations guaranteed by the Americans with Disabilities Act. You are concerned that the Code, specifically La. R.S. 42:1111A, would prohibit LCD commissioners and their families from receiving services from LCD to which they would otherwise be entitled. You would like an exception granted for these affected LCD commissioners.

LAW

La. R.S. 42:1102(13) defines "immediate family" as the term relates to a public servant to mean his children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse.

La. R.S. 42:1111A prohibits a public employee from receiving anything of economic value, other than compensation and benefits from the governmental entity to which he is duly entitled, for the performance of the duties and responsibilities of his office or position.

La. R.S. 42:1112B(1) states that no public servant shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any member of his immediate family has a substantial economic interest.

La. R.S. 42:1113B states that no appointed member of a board or commission, or member of such a public servant's immediate family, or a legal entity in which he has an economic interest t shall

bid on, enter into, or be in any way interested in any contract, subcontract or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

ANALYSIS

The Board does not have the authority to provide exceptions to the Code of Governmental Ethics. Any change in the Code of Governmental Ethics would necessitate changes to the statutes by the Legislature.

La. R.S. 42:1111A is not implicated in the provision of services to LCD commissioners who are DDBHH, as such services are not being provided for the performance of the duties and responsibilities of their office or position.

La. R.S. 42:1113B is the provision that applies to the circumstances in your request. This provision of law prohibits LCD commissioners from entering into or being in any way interested in transactions with the LCD. The Louisiana Supreme Court, in *Hill v. Commission on Ethics for Public Employees*, 453 So.2d 558 (La. 1984), concluded that the renewal of a shop license by a member of the Louisiana Board of Cosmetology is “routine and mechanical” since there was no showing that the board was required to vote or exercise authority with respect to the renewal of licenses. In *Hill*, Ms. Elgin Hill was an appointed member of the Louisiana Board of Cosmetology, at the same time that she was a licensed cosmetologist and owned an interest in a beauty salon.

Furthermore, La. R.S. 42:1112 prohibits LCD commissioners from participating in matters before the LCD in which they have a substantial economic interest.

CONCLUSION

The Board concluded, and instructed me to inform you, that the Code of Governmental Ethics would not prevent LCD commissioners or members of their immediate family from receiving services from LCD, to the extent that such services are available to all DDBHH individuals at the same terms and conditions. Also, members of the LCD who receive such services should not participate in matters before the LCD regarding the receipt of their services.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Louisiana Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Louisiana Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Acts, and the conflict of interest provisions contained in the Louisiana Gaming Control Law. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

Charles E. Reeves, Jr.
For the Board